

APPEAL NO. 021930
FILED SEPTEMBER 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 8, 2002. The hearing officer determined that the respondent (claimant herein) sustained an injury in the form of an occupational disease on _____, and that the claimant had disability from February 11, 2002, continuing through the date of the CCH. The appellant (carrier herein) files a request for review arguing that the hearing officer erred in admitting into evidence a medical report, which stated that based on diagnostic studies the claimant suffered from bilateral carpal tunnel syndrome (CTS), because the report was not timely exchanged and the hearing officer's finding of good cause for untimely exchange was incorrect in that the carrier argues that the claimant failed to exercise due diligence in not obtaining the report earlier. The carrier argues that absent this report there is no evidence to support the hearing officer's finding of injury and that absent proof of injury, the claimant could not have disability. The claimant responds that she did exercise due diligence in obtaining, and thus had good cause for not exchanging the medical report in question. The claimant also argues that even absent this report there was sufficient evidence in the record to support the hearing officer's decision.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

This case really turns on the question of whether or not the hearing officer erred in admitting Claimant's Exhibit No. 1, which was a medical report stating that based upon nerve conduction studies and an EMG the claimant suffered from bilateral CTS. It was undisputed that this document was not timely exchanged. The claimant argued that she exchanged this document as soon as she received it. The carrier argued that the claimant could have received this report earlier had she exercised due diligence, and therefore, did not have good cause for failing to timely exchange it. The attorney for the claimant represented to the hearing officer that he had requested this record prior to the benefit review conference. Based upon this representation the hearing officer found good cause for the untimely exchange of the medical report. We review good cause determinations on an abuse of discretion standard of review. We find the hearing officer did not abuse her discretion in admitting the report.

Since the carrier's argument in this case that there was no evidence to support the hearing officer's finding of injury and disability hinge on the argument that Claimant's Exhibit No. 1 should not have been admitted, we affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is:

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Thomas A. Knapp
Appeals Judge